

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1329**

**Introduced by Assembly Member Levine**

February 21, 2003

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An act to ~~add Section 2895.5 to the~~ amend Sections 216 and 12801 of, to add Section 242 to, and to add Chapter 8 (commencing with Section 2840) to Part 2 of Division 1 of, the Public Utilities Code, relating to ~~telecommunications~~ gasoline and diesel.

LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, Levine. Public Utilities Commission: ~~telecommunications~~ gasoline and diesel.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. The California Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the California Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would make a gasoline corporation, as defined, a public utility subject to the jurisdiction and authority of the commission. The bill would require the commission to establish policies and procedures

for cost-effective energy efficiency and conservation programs for gasoline corporations.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

By making gasoline corporations subject to the act, this bill would impose a state-mandated local program by creating new crimes.

(2) The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter.

This bill would additionally authorize a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with gasoline and diesel.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes a Public Utilities Commission, with powers and duties relating to public utilities, including the authority to establish its own procedures, subject to statute and due process, the duty to enforce provisions of law affecting public utilities, and certain adjudicative powers.~~

~~The Telecommunications Customer Service Act of 1993 requires the commission to require telephone corporations to provide certain customer services to telecommunications customers and authorizes the commission to require telephone corporations to provide additional services.~~

~~This bill would provide that consumers of telecommunications services have a right of disclosure, a right of choice, a right of privacy, a right to public participation and enforcement, a right to accurate bills and adequate remedies when bills are not accurate, a right to be free from discrimination, and a right to safety and security of their person and property.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

~~SECTION 1. Section 2895.5 is added to the Public Utilities~~

*SECTION 1. Section 216 of the Public Utilities Code is amended to read:*

216. (a) “Public utility” includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, *gasoline corporation*, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, *gasoline corporation*, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that common carrier, toll bridge corporation, pipeline corporation, gas corporation, *gasoline corporation*, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service for, or delivers any commodity to, any person, private corporation, municipality, or other political subdivision of the state, that in turn either directly or indirectly, mediately or immediately, performs that service for, or delivers that commodity to, the public or any portion thereof, that person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) Ownership or operation of a facility that employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology does not make a corporation or person a public utility within the meaning of this section solely because of the ownership or operation of that facility.

(e) Any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.

(f) The ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from that facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, operation, or sale.

(g) Ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission as an exempt wholesale generator pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (Chapter 2C (commencing with Section 79) of Title 15 of the United States Code) does not make a corporation or person a public utility within the meaning of this section, solely due to the ownership or operation of that facility.

(h) The ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions, as permitted by subdivision (b) of Section 365, sales into the Power Exchange referred to in Section 365, or the use or sale as permitted under subdivisions (b) to (d), inclusive, of Section 218, shall not make a corporation or person a public utility within the meaning of this section solely because of that ownership, participation, or sale.

SEC. 2. Section 242 is added to the Public Utilities Code, to read:

242. (a) "Gasoline plant" includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the refining, transmission, distribution, delivery, underground storage, sale, or furnishing of gasoline or diesel. "Gasoline plant" does not include real estate, fixtures, and personal property used for the drilling or storage of petroleum prior to the petroleum beginning transport to a refinery.

(b) "Gasoline corporation" includes every corporation or person owning, controlling, operating, or managing any gasoline

1 *plant for compensation within this state, except where gasoline or*  
2 *diesel is made or produced on and distributed by the maker or*  
3 *producer through private property alone solely for his or her own*  
4 *use or the use of his or her tenants and not for sale to others.*

5 *SEC. 3. Chapter 8 (commencing with Section 2840) is added*  
6 *to Part 2 of Division 1 of the Public Utilities Code, to read:*

7  
8 *CHAPTER 8. GASOLINE CORPORATIONS*  
9

10 *2840. The commission shall establish policies and procedures*  
11 *for cost-effective energy efficiency and conservation programs for*  
12 *gasoline corporations.*

13 *SEC. 4. Section 12801 of the Public Utilities Code is amended*  
14 *to read:*

15 *12801. A district may acquire, construct, own, operate,*  
16 *control, or use, within or without, or partly within or partly*  
17 *without, the district, works or parts of works for supplying the*  
18 *inhabitants of the district and public agencies therein, or some of*  
19 *them, with light, water, power, heat, gasoline, diesel,*  
20 *transportation, telephone service, or other means of*  
21 *communication, or means for the collection, treatment, or*  
22 *disposition of garbage, sewage, or refuse matter, and may do all*  
23 *things necessary or convenient to the full exercise of the powers*  
24 *herein granted. The district may also purchase any of such*  
25 *commodities or services from any other utility district, public*  
26 *agency, person, or private company, and distribute them.*

27 *SEC. 5. No reimbursement is required by this act pursuant to*  
28 *Section 6 of Article XIII B of the California Constitution because*  
29 *the only costs that may be incurred by a local agency or school*  
30 *district will be incurred because this act creates a new crime or*  
31 *infraction, eliminates a crime or infraction, or changes the penalty*  
32 *for a crime or infraction, within the meaning of Section 17556 of*  
33 *the Government Code, or changes the definition of a crime within*  
34 *the meaning of Section 6 of Article XIII B of the California*  
35 *Constitution.*

36 *Code, to read:*

37 ~~*2895.5. Consumers of telecommunications services have all*~~  
38 ~~*of the following rights:*~~

39 ~~*(a) A right of disclosure, including the right to receive clear and*~~  
40 ~~*complete information about rates, charges, terms, and conditions*~~

1 ~~for available products and services, and to pay for products and~~  
2 ~~services according to the rates, charges, terms, and conditions they~~  
3 ~~have agreed to.~~

4 ~~(b) A right of choice, including the right to select the products~~  
5 ~~and services they desire and to select the vendor of those products~~  
6 ~~and services, and to have those choices honored by the~~  
7 ~~telecommunications industry.~~

8 ~~(c) A right of privacy, including a right to personal privacy, to~~  
9 ~~be protected from unauthorized use of their telecommunications~~  
10 ~~records and personal information, and to be free from intrusive~~  
11 ~~communications and technology.~~

12 ~~(d) A right to public participation and enforcement, including~~  
13 ~~a right to participate in public policy proceedings, to be informed~~  
14 ~~of their rights and the agencies responsible for enforcing those~~  
15 ~~rights, and to have effective recourse if their rights are violated.~~

16 ~~(e) A right to accurate bills and adequate remedies when bills~~  
17 ~~are not accurate, including a right to billings that accurately state~~  
18 ~~the products and services being charged, billings that enable the~~  
19 ~~consumer to understand what products and services are being~~  
20 ~~charged, and to receive fair, prompt, and courteous resolution of~~  
21 ~~a disagreement with, or question about, the appropriateness of any~~  
22 ~~charge.~~

23 ~~(f) A right to be free from discrimination, including the right~~  
24 ~~to be treated equally to all other similarly situated consumers, free~~  
25 ~~of prejudice or disadvantage.~~

26 ~~(g) A right to safety and security of their persons and property.~~

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